



APR 02 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

Mark G. Lappin  
McDermott, Will & Emery  
28 State Street  
Boston, MA. 02109-1775

In re Application of : DECISION ON PETITION  
JOHNSON, et al. :  
U.S. Application No.: 09/762,077 :  
PCT No.: PCT/US99/17338 : UNDER 37 CFR 1.47(a)  
Int. Filing Date: 30 July 1999 :  
Priority Date: 30 July 1998 :  
Attorney Docket No.: 56326-032 (IOFL-007) :  
For: INFRARED RADIATION SOURCES, SENSORS :  
AND SOURCE COMBINATIONS, AND :  
METHODS OF MANUFACTURE :  
:

This decision is in response to applicants' "RENEWED PETITION UNDER 37 CFR § 1.47(a)" filed 07 January 2002.

**BACKGROUND**

On 07 November 2001, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor W. Andrew Bodkin. Applicant was afforded two months to file any request for reconsideration.

On 07 January 2002, applicant responded with the present renewed petition.

**DISCUSSION**

As discussed in the decision mailed 07 November 2001, a petition under 37 CFR 1.47(a) must be accompanied by: (1) the requisite \$130 petition fee required by 37 CFR 1.17(I); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; and (4) an oath or declaration executed by each of the signing joint inventors on their behalf and on behalf of the non-signing joint inventor(s). Applicant previously satisfied items (1) and (3) above.

Regarding item (2), applicants have presently provided first-hand knowledge that the non-signing inventor, Mr. Bodkin, has been presented with a complete copy of the application papers as required and expressly refused to execute the provided declaration. Thus, applicants have satisfied item (2).

As to item (4), the declaration filed 07 January 2002 is not compliant. The executed declaration executes the wrong U.S. application number. The declaration lists the serial number as "09/762,207" whereas the U.S. serial number for the present application is 09/762,077. In addition, the fourth named inventor is identified as "James T. DALEY" in the published international application while the individual is listed as, and executed by, "James T. DALY" on the filed declaration.

For the reasons stated above it is not possible to grant applicants' renewed petition under 37 CFR 1.47(a) at this time.

### CONCLUSION

Applicant's renewed petition under 37 CFR 1.47(a) is **DISMISSED, without prejudice.**

Applicants are hereby afforded TWO (2) MONTHS from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.



Boris Milef  
Legal Examiner  
PCT Legal Office



Derek A. Putonen  
Petitions Attorney  
PCT Legal Office  
Tel: (703) 305-0130  
Fax: (703) 308-6459